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By: **Delegates Marriott, Haynes, Krysiak, McHale, Oaks, Paige, and Pugh**

Introduced and read first time: February 10, 2006

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City Civilian Review Board - Additional Powers**

3 FOR the purpose of expanding the authority of the Baltimore City Civilian Review  
4 Board to process, investigate, review, and evaluate certain allegations; defining  
5 certain terms; and generally relating to the Baltimore City Civilian Review  
6 Board.

7 BY repealing and reenacting, without amendments,  
8 The Public Local Laws of Baltimore City  
9 Section 16-1 and 16-46  
10 Article 4 - Public Local Laws of Maryland  
11 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

12 BY repealing and reenacting, with amendments,  
13 The Public Local Laws of Baltimore City  
14 Section 16-41, 16-42, and 16-44  
15 Article 4 - Public Local Laws of Maryland  
16 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article 4 - Baltimore City**

20 16-1.

21 The following words and phrases as used in this subtitle shall have or include  
22 the following meanings.

23 (1) "Board" shall mean the Civilian Review Board established in § 16-42  
24 of this subtitle.

25 (2) "Department" shall mean the Police Department of Baltimore City as  
26 constituted and established by this subtitle.

1 (3) "Commissioner" or "Commissioner of Police" shall mean the Police  
2 Commissioner of Baltimore City.

3 (4) "Internal Investigative Division" shall mean an official internal  
4 investigative unit under the organizational structure of the Department or other law  
5 enforcement unit.

6 (5) "Internal Investigative Division Report" shall mean the official file of  
7 an investigation conducted by the Internal Investigative Division as the result of a  
8 complaint against a police officer.

9 (6) "Members of the department" shall mean and include all persons and  
10 personnel employed by the department, whether civilian employees or police officers.

11 (7) "Police officers" shall mean all those members of the department  
12 having and exercising the powers of police officers, as provided in this subtitle, and  
13 shall specifically include the Police Commissioner of Baltimore City, all deputy police  
14 commissioners, and such other ranks or positions which the Commissioner may  
15 determine require experience as a police officer as a prerequisite.

16 (8) "Civilian employees" shall mean all members of the department other  
17 than police officers.

18 (9) "Examining authority" shall mean the Civil Service Commission of  
19 Baltimore.

20 16-41.

21 (a) In this subheading the following words have the meanings indicated.

22 (b) (1) "Abusive language" means harsh, violent, profane, or derogatory  
23 language which would demean the dignity of an individual.

24 (2) "Abusive language" includes profanity and racial, ethnic, or sexist  
25 slurs.

26 (c) (1) "Excessive force" means the use of greater physical force than  
27 reasonably necessary to repel an attacker or terminate resistance.

28 (2) "Excessive force" does not include force that is reasonably necessary  
29 to effect a lawful purpose.

30 (D) "FALSE ARREST" MEANS:

31 (1) THE ASSERTION OF AN AUTHORITY TO DETAIN A PERSON THAT IS:

32 (I) BASED ON INFORMATION THE PERSON ASSERTING AUTHORITY  
33 EITHER KNOWS OR SHOULD KNOW IS ERRONEOUS; OR

34 (II) WITHOUT LEGAL AUTHORITY;

1 (2) THE UNLAWFUL RESTRAINT OF ANOTHER PERSON'S LIBERTY OR  
2 FREEDOM OF LOCOMOTION WITHOUT THAT PERSON'S CONSENT; OR

3 (3) THE INSTIGATION OR PARTICIPATION BY A PERSON IN THE FALSE  
4 ARREST OF ANOTHER PERSON.

5 (E) "FALSE IMPRISONMENT" MEANS:

6 (1) THE DETENTION OF A PERSON THAT EXCEEDS MERE STOPPING, OR  
7 OBSTRUCTION WITHOUT THAT PERSON'S CONSENT, THAT IS:

8 (I) BASED ON INFORMATION THAT THE DETAINER KNOWS OR  
9 SHOULD KNOW IS ERRONEOUS; OR

10 (II) WITHOUT LEGAL AUTHORITY; OR

11 (2) THE INSTIGATION OR PARTICIPATION BY A PERSON IN THE FALSE  
12 IMPRISONMENT OF ANOTHER PERSON.

13 [(d)] (F) "Harassment" means:

14 (1) repeated, unwarranted verbal or physical annoyances; or

15 (2) unwarranted threats or unwarranted demands.

16 [(e)] (G) "Law enforcement unit" means

17 the Police Department of Baltimore City,

18 the Baltimore City School Police,

19 the Housing Authority of Baltimore City Police, and

20 the Baltimore City Sheriff's Department.

21 [(f)] (H) "Police officer" means a member of a law enforcement unit  
22 authorized to make arrests.

23 16-42.

24 (a) The Civilian Review Board of Baltimore City is established to provide a  
25 permanent, statutory agency in Baltimore City through which:

26 (1) complaints lodged by members of the public regarding abusive  
27 language, FALSE ARREST, FALSE IMPRISONMENT, harassment, or excessive force by  
28 police officers of a law enforcement unit shall be processed, investigated under §  
29 16-46 of this subheading, and evaluated; and

30 (2) policies of a law enforcement unit may be reviewed.

1 (b) Jurisdiction of the Board shall extend only to complaints against police  
2 officers with respect to abusive language, FALSE ARREST, FALSE IMPRISONMENT,  
3 harassment, and use of excessive force[,] as defined in § 16-41 of this subheading  
4 and by the law enforcement unit's rules and regulations.

5 (c) A law enforcement unit shall place posters in all law enforcement unit  
6 stations and elsewhere throughout the City to explain the procedure for filing a  
7 complaint.

8 (d) An explanation of the Board's complaint procedures shall be made to all  
9 police officers in a general order to be included in the manual of rules and procedures  
10 of a law enforcement unit, and shall be included in the training program for new  
11 police officers.

12 16-44.

13 (a) An individual who claims to have been subjected to or witnessed an act of  
14 abusive language, FALSE ARREST, FALSE IMPRISONMENT, harassment, or excessive  
15 force, or injury allegedly resulting from excessive force caused by a police officer, may  
16 file a complaint at

17 the Office of the Internal Investigative Division,

18 the Legal Aid Bureau,

19 the Maryland Human Relations Commission,

20 the Baltimore Community Relations Commission, or

21 at any of the police district stations.

22 (b) (1) Except as provided in paragraph (2) of this subsection, a complaint  
23 shall be made within 1 year of the action giving rise to the complaint.

24 (2) A complaint for excessive force shall be made within 90 days of the  
25 alleged act of excessive force.

26 (c) (1) (i) The complaint shall be reduced to writing on a form authorized  
27 by the Board, signed by the complainant, and witnessed by a notary public.

28 (ii) In addition to the requirements of subparagraph (i) of this  
29 paragraph, a complaint for excessive force shall be sworn to by the complainant.

30 (2) The complaint shall include:

31 (i) the name of the complainant;

32 (ii) if known, the name of the police officer allegedly involved;

33 (iii) the date, time, and place of the alleged misconduct;

- 1 (iv) the circumstances of the alleged misconduct; and  
2 (v) an explanation of the alleged misconduct that is deemed to be  
3 wrongful.

4 (d) One copy of the completed form shall be retained by the recipient of the  
5 complaint and a copy given to the complainant. A copy shall be sent within 48 hours  
6 to the Internal Investigative Division and the Secretary of the Board.

7 (e) The Secretary of the Board shall assign a consecutive number to each  
8 complaint, and within 48 hours, shall send a copy to each member of the Board. The  
9 Secretary shall also maintain on file a record of each complaint.

10 16-46.

11 (a) (1) The Board shall review all complaints alleging police misconduct  
12 described in § 16-42(a)(1) of this subheading.

13 (2) The Board may investigate, simultaneously with the Internal  
14 Investigative Division, each complaint it deems appropriate and report its findings to  
15 the Internal Investigative Division.

16 (b) (1) The Board may issue a subpoena, signed by the Chairman of the  
17 Board, to compel:

18 (i) the attendance and testimony of a witness other than the  
19 accused officer; and

20 (ii) the production of any book, record or other document.

21 (2) If a person fails to comply with a subpoena issued under this  
22 subsection, on petition of the Board, a court of competent jurisdiction may compel  
23 compliance with the subpoena.

24 (3) A police officer may submit a witness list to the Board 10 days or  
25 more before the Board takes testimony.

26 (4) The Chairman or the Secretary of the Board may administer oaths in  
27 connection with any proceeding of the Board.

28 (5) The police officer or the police officer's representative shall have the  
29 right to question witnesses who testify about the complaint.

30 (6) All witness testimony shall be recorded.

31 (c) (1) The Board shall review the Internal Investigative Division's Report.

32 (2) On review of the Internal Investigative Division Report and the  
33 Board's investigative report, if any, of each case, the Board shall recommend to the  
34 head of the appropriate law enforcement unit one of the following actions:

1 (i) sustain the complaint and may recommend the appropriate  
2 disciplinary action against the police officer;

3 (ii) not sustain the complaint;

4 (iii) exonerate the police officer; or

5 (iv) further investigation by the Internal Investigative Division.

6 (d) The Board shall submit a statement of its findings and recommendations  
7 to the head of the appropriate law enforcement unit within 30 days of receipt of the  
8 Internal Investigative Division Report.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2006.